REMARKS

This Amendment and Request for Reconsideration is submitted in response to an outstanding Office Action dated March 31, 2005, the shortened statutory period for response having expired on June 30, 2005. Accordingly, a Petition and Fee for Extension of time are included herewith.

I. Status of the Claims

Please cancel claim 9, and amend claims 1, 3, 10 and 12 as indicated above. Claims 1-8 and 10-17 are now pending in the application. Claims 1 and 10 are independent claims.

Applicants acknowledge the Examiner's citation of statutory authority as a basis for claim rejections.

II. Rejections under 35 U.S.C. § 103(a)

The Examiner has rejected claims 1-17 under 35 U.S.C. § 103(a) as being unpatentable over *Murphy* (U.S.P. No. 6,409,661) in view of *Patel et al.* (U.S.P. No. 6,073,046). Applicant respectfully traverses the rejection.

Claim 1

With respect to claim 1, the Examiner states that *Murphy* "teaches a method for remotely monitoring the health of a patient, said method comprising:

--the claimed using a remotely located data collection device, prompting a remotely located user to place a plurality of electrodes connected to said data collection device in predetermined locations on the patient's body is met by the diagnostic apparatus comprising a plurality of medical sensors including a ECG sensor array or electrodes (1, Fig. I), a blood pressure sensor and pulse rate (3, Fig. I), and one or more other sensors such as a temperature

sensor (2, Fig. 1) and a capnometer (4, Fig. 1) (see: column 4, lines 41-45). In addition, Murphy teaches a plurality of electrodes need to be carefully and accurately attachment to specific location of the body (see: column 8, lines 30-32); and

--the claimed causing said data collection device to read electrical data from the patient's body using said electrodes is met by the external application control that interfaces with the software modules of the diagnostic apparatus and causes data to be display and stored on a PC (4, Fig. 1) by pressing a key (see: column 8, lines 34-59)."

The Examiner acknowledges that *Murphy* fails to teach:

"--the claimed transmitting said electrical data to a central location; and

--the claimed evaluating said electrical data at said central location to make a determination as to the health of the patient."

The Examiner relies on *Patel* to teach "a heart monitoring system where the patient is provided with multiple lead EKG terminal spreads placed on the body and the signal are collected and transmitted to a remote central location (see: abstract). In addition, Patel et al. teaches once the patient data is received at the central location, the data is evaluated to make a determination of patient condition (see: column 2 1, lines 25-44)."

As a motivation for combining *Murphy* and *Patel*, the Examiner states that "[o]ne of ordinary skill in the art at the time the invention was made would have found it obvious to include transmitting data to a central location to make a determination of the patient's health as taught by Patel et al. within the diagnosis apparatus of Murphy with the motivation of providing early detection and long term monitoring of heart related disorders (see: Patel et al.: column 1, lines 12-14)."

Applicant respectfully submits that *Murphy* and *Patel* take different approaches to

a problem addressed by claim 1. In *Murphy* (see column 8, lines 14-16), the patient is in the role of passive victim on whom the apparatus is operated by a third person. The patent is not prompted to place a plurality of electrodes in predetermined locations on the patient's body . In *Patel* (see column 4, lines 31-32) test equipment worn on the person is omnipresent and ... a conventional spread electrodes involves 12 electrode terminals attached to the body (see column 4, lines 60-61).

In addition, as in amended claim 1, the remotely located patent is prompted to place the electrodes, as previously provided in now cancelled claim 9. With regard to claim 9, the Examiner stated that "Murphy teaches the claimed patient is the user. This limitation is met by the apparatus for use on aircraft for diagnosis of human passengers (hereinafter patient) (see: column 4, lines 30-33)."

However, in *Murphy* the patient is in the role of passive victim on whom the apparatus is operated by a third person and not by patients themselves (see column 8, lines 14-16). This is a fundamental difference in modus operandi of claim 1 and *Murphy*.

Accordingly, Applicant submits that the combination of *Murphy* and *Patel* fail to disclose claim 1 and that a person of ordinary skill would not be motivated to combine the references.

Claim 3

With respect to claim 3, the Examiner states "Murphy teaches the claimed plurality of electrodes comprises three electrodes is met by the diagnostic apparatus comprising a plurality of medical sensors including a ECG sensor array (1, Fig. I), which is usually a standard 12 lead array or electrodes (see: column 4, lines 41-45 and column 8, lines 30-32)"

Applicant respectfully submits that Murphy specifies "wherein the ECG array is

twelve lead array" (column 8, line 30; column 12, lines 1-2). This is a standard 12-lead ECG with hand, leg and chest electrodes connected by wires. It is therefore not a plurality of electrodes that comprises only three electrodes.

It is noteworthy that the claimed three electrode arrangement serves the purpose of making ECG measurements practically available at all times, and is not dependent on the patient's location. For example, a patient can be anywhere (shopping mall, walking outside, being in public places etc.), and can quickly and easily take and transmit ECG data. A device that uses a standard 12-lead ECG, as described in *Murphy* fails to achieve this unique goal.

Applicant respectfully submits that the combination of *Murphy* and *Patel* fails to disclose all of the limitations of claim 3 and that claim 3 is thus allowable at least for this reason.

Claim 4

With respect to claim 4, the Examiner states "Murphy teaches the claimed said data collection device is a hand-held device and said plurality of electrodes are in predetermined locations on the surface of said handheld device. This limitation ... is met by the diagnostic apparatus comprising an ECG sensor array (1, Fig. 1) which is usually a standard 12 lead array or electrodes (see: column 4, lines 41-45 and column 8, lines 30-32). In addition, Murphy teaches that the apparatus is portable housed in container (see: column 2, lines 24-26)."

Applicant respectfully submits that the standard 12-lead ECG array disclosed in *Murphy* comprises hand, leg and chest electrodes connected by wires and therefore it can not be a plurality of electrodes in predetermined locations on the surface of the hand-held device, as claimed. The claimed invention allows effortless and precise placement of electrodes by the patients themselves: specifying the electrode placement to be on the palms of a patient having in a great extent lower sensitivity to the effect of displacement of electrodes on resulting ECG

signal; and negating the need of long wires inherently required for operation of a standard 12-lead electrode array. These features avoid the complexity of deployment of ECG measurement particularly for critical cases of ad hoc measurements when transient heart failure occurs.

Applicant respectfully submits that the combination of *Murphy* and *Patel* fails to disclose all of the limitations of claim 4 and that claim 4 is thus allowable at least for this reason.

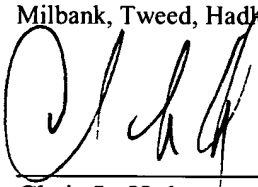
Claims 10-17

Claims 10-17 are apparatus claims corresponding generally to the methods of claims 1-8, and the arguments provided above with respect to those claims also apply to claims 10-17.

III. Request for Reconsideration

Applicants respectfully submit that the claims of this application are in condition for allowance. Accordingly, reconsideration of the rejection and allowance is requested. If a conference would assist in placing this application in better condition for allowance, the undersigned would appreciate a telephone call at the number indicated.

Respectfully submitted,
Milbank, Tweed, Hadley & McCloy LLP



September 30, 2005

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